

3. Constructive Petition

[X] **EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

4. Fee Calculation (37 C.F.R. § 1.16)

| CLAIMS AS AMENDED | | | | | | |
|---|---|-------|--------------------------------|------------------|--------------|------------------|
| | Claims Remaining After Amendment | | Highest No. Previously Paid | Present Extra | at Rate of | Total Fees |
| Total Claims (37 C.F.R. §1.16(c)) | 47 | minus | 31 | 16 | x \$18 each= | + \$288.00 |
| Independent Claims (37 C.F.R. §1.16(b)) | 4 | minus | 8 | 0 | x \$84 each= | + \$0 |
| [] First presentation of Multiple dependent claim(s) | | | | | \$280.00 | + \$ |
| SUB-TOTAL = | | | | | | \$288.00 |
| Reduction by 2 for filing by a small entity | | | | | | - \$ |
| TOTAL FEE = | | | | | | \$ 288.00 |

5. Fee Payment

☐ No fee is to be paid at this time.

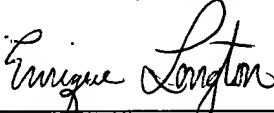
☒ The Commissioner is hereby authorized to charge **\$398.00** (\$110 for one-month Extension of Time, \$288 for excess total claims) to Deposit Account 50-0310.

☒ The Commissioner is hereby authorized to charge any additional fees which may be required, including fees due under 37 CFR §' 1.16 and 1.17, or credit any overpayment to Deposit Account 50-0310.

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

By:



Enrique D. Longton

Reg. No. 47,304

Date: December 3, 2002

Customer No. 009629

MORGAN, LEWIS & BOCKIUS LLP

1111 Pennsylvania Avenue, N.W.

Washington, D.C. 20004

202.739.3000

202.729.3001



#11/BIP
12/6/02

PATENT
ATTORNEY DOCKET NO. 056100-5022-08

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE **RECEIVED**

In re Application of:

Chris SOMERVILLE *et al.*

Application No.: 09/885,189

Filed: June 21, 2001

For: PRODUCTION OF HYDROXYLATED FATTY ACIDS
IN GENETICALLY MODIFIED PLANTS

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

DEC 05 2002

TECH CENTER 1600/2500

Group Art Unit: 1638

Examiner: E. McElwain

RESPONSE TO ELECTION/RESTRICTION REQUIREMENT

In response to the restriction requirement in the Office Action mailed October 3, 2002 (Paper No. 10), Applicants respectfully elect, with traverse, to prosecute Group V (claim 13), drawn to oil.

Kindly amend this application as follows:

IN THE CLAIMS:

Please cancel claims 1-12 and 14-25 without prejudice or disclaimer. Applicants reserve the right to pursue unclaimed subject matter in related continuing or divisional applications.

Please add the following new claims:

36. Oil obtained from seeds of a transgenic plant, wherein said plant is transformed with a recombinant DNA construct, said construct comprising a nucleic acid sequence encoding a fatty acid hydroxylase that hybridizes to a nucleic acid probe encoding SEQ ID NO:4 under the following conditions:

12/04/2002 SZEMDIE1 00000049 500310 09885189

01 FC:1202
02 FC:1251

288.00 CH
110.00 CH